

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* RICHARD B. WRIGHT and KENNETH MILLIGAN

---

Appeal No. 97-2911  
Application 08/399,836<sup>1</sup>

---

ON BRIEF

---

Before STAAB, NASE and CRAWFORD, *Administrative Patent Judges*.  
STAAB, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 3, 9 and 10, all the claims then remaining in the application. Subsequent to the final rejection, appellants

---

<sup>1</sup> Application for patent filed March 7, 1995.

Appeal No. 97-2911  
Application 08/399,836

filed an amendment (Paper No. 8) canceling claim 9 and amending claim 10 to include the subject matter of claim 9 therein. Accordingly, only the rejection of claims 3 and 10 remain before us for review.<sup>2</sup>

Appellants' invention pertains to a double-ended flex-handle wrench. Independent claim 10, a copy of which appears in the appendix to appellants' brief, is illustrative of the appealed subject matter.

The references of record relied upon by the examiner in support of a rejection under 35 U.S.C. § 103 are:

Nakano	2,294,510	Sept. 1, 1942
Engquist	2,951,405	Sept. 6, 1960
Wendling	2,987,334	Jun. 6, 1961

Claims 3 and 10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Engquist in view of Nakano and Wendling.

Reference is made to appellants' brief (Paper No. 11) and reply brief (Paper No. 13) and to the examiner's answer (Paper No. 12) for the respective positions of appellants and the

---

<sup>2</sup> Both the examiner (answer, page 2) and appellants (brief, page 2; reply brief, page 2) appear to be of the view that dependent claim 3 has been canceled. However, our review of the record reveals that claim 3 remains pending.

examiner with respect to the merits of this rejection.

The only claim limitation argued by appellants as patentably distinguishing the claims over the applied prior art is the requirement of claim 10 that the handle of the wrench includes a pair of ergonomic gripping surfaces in the form of bulbous portions. Specifically, claim 10 calls for a handle having a pair of opposing forked arms connected by bridge means at each end thereof, "and a pair of bulbous portions, each said bulbous portion positioned near one of said bridge means to provide additional ergonomic gripping surfaces for controlling and maneuvering said double-ended flex-handle wrench."

The examiner has taken the position on the penultimate page of the answer that the enlarged portions 2 and 3 of Engquist's wrench can be broadly construed as the claimed "bulbous" portions.

This position is not well taken. First, the enlarged ends of Engquist's wrench *as a whole* (i.e., the forked end 4 and 5, the bridge portions joining the forked ends, and the tapered transition portions joining the bridge portions to the

narrow shank 1) cannot be considered bulbous portions as called for by claim 10. This is so because claim 10 specifically calls for each end of the handle to have a pair of opposing forked arms connected by bridge means, and further calls for a bulbous portion to be positioned "near" each bridge means. This makes clear that the claimed bulbous portions are separate and distinct from the bridge means and forked arms.

Second, Engquist's tapered transition portions by themselves cannot be considered bulbous portions under any fair reading of the term "bulbous." In this instance, an appropriate definition for "bulbous" is "resembling a bulb: rounded" and an appropriate definition for "bulb" is "a rounded projection or part."<sup>3</sup> Because the tapered transition portions of Engquist between the handle shank and the bridge portions are not arcuate in longitudinal cross section, it is our view that they are not in any sense "rounded" so as to "resemble a bulb." They are, at best, frustoconical.

---

<sup>3</sup> *Webster's New Riverside University Dictionary* (The Riverside Publishing Company © 1984).

Appeal No. 97-2911  
Application 08/399,836

Third, while it is well settled that terms in a claim are to be given their broadest reasonable interpretation in proceedings before the PTO, this interpretation must be consistent with the specification and the claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Bond*, 910 F.2d 831, 833, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990); *In re Sneed*, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983). Here, when the claim limitation calling for "bulbous portions" positioned near the bridge means to provide additional ergonomic gripping surfaces is read in light of the specification, we can think of no circumstances where one of ordinary skill in the art would regard Engquist's tapered transition portions as meeting this limitation.

In light of the foregoing, we shall not sustain the standing § 103 rejection of claims 3 and 10 as being unpatentable over Engquist in view of Nakano and Wendling.

The decision of the examiner is reversed.

*REVERSED*

Appeal No. 97-2911  
Application 08/399,836

LAWRENCE J. STAAB	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
JEFFREY V. NASE	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
MURRIEL E. CRAWFORD	)	
Administrative Patent Judge	)	

Appeal No. 97-2911  
Application 08/399,836

D. Peter Hochberg Co.  
The Baker Building Sixth Floor  
1940 Eash 6th Street  
Cleveland, OH 44114